

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-6574

MALCOLM E. PFEIFFER-EL,

Petitioner - Appellant,

v.

UNITED STATES OF AMERICA; UNITED STATES CONGRESS; UNITED
STATES SUPREME COURT,

Respondents - Appellees.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. Terrence W. Boyle,
District Judge. (5:11-hc-02061-BO)

Submitted: July 26, 2012

Decided: August 2, 2012

Before MOTZ, DAVIS, and FLOYD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Malcolm E. Pfeiffer-El, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Malcolm E. Pfeiffer-El, a state prisoner, seeks to appeal the district court's order denying relief on his "Averment of Jurisdiction." Because Pfeiffer-El is a state prisoner, and the pleading was appropriately docketed as one arising under 28 U.S.C. § 2241 (2006), the district court's order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(2) (2006). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2006). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the petition states a debatable claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85.

We have independently reviewed the record and conclude that Pfeiffer-El has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny leave

to proceed in forma pauperis, and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED